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/Armand P. Boisselle/
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October 17, 2008
Date

AVERP3187WOUS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Michael E. Hannington

Serial No.: 10/596,659

Filed: June 20, 2006

Group No.: 1794

Examiner: Patricia L. Nordmeyer

Confirmation No.: 8910

For: ADHESIVE ARTICLES WITH IMPROVED AIR EGRESS AND METHODS OF
MAKING THE SAME

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPLICANT'S BRIEF ON APPEAL

Dear Sir:

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This amended Appeal Brief is submitted in the above-identified application in response to the final rejection mailed from the Patent and Trademark Office on September 19, 2008. Appellant's Notice of Appeal was filed on October 3, 2008. Accordingly, Appellant's Appeal Brief is timely filed.

I. REAL PARTY IN INTEREST

The real party in interest is Avery Dennison Corporation, 150 North Orange Grove Boulevard, Pasadena, California 91103, the assignee of the above-identified application.

II. RELATED APPEALS AND INTERFERENCES

Appellant is aware of no related appeals or interferences that will directly affect or be directly affected by or have a bearing on the Board's decision in the instant appeal.

III. STATUS OF CLAIMS

Claims 1-21 and 45-57 are pending in the application. Claims 1-21 and 55-57 have been finally rejected and are the subject of the present Appeal. Claims 22-44 and 58-60 have been cancelled, and claims 45-54 have been withdrawn from consideration as being directed to a non-elected invention. The claims on appeal are reproduced in the attached APPENDIX A.

IV. STATUS OF AMENDMENTS

No amendment of the claims has been filed subsequent to the Final Rejection.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

The present invention is directed generally to adhesive articles having improved properties such as air egress, repositionability and slideability (page 1, lines 2-3). The claimed adhesive articles are useful in various adhesive applications such as, for example, tapes, labels, industrial graphics applications, articles used for graphic

images, such as those used on vehicles, specialty materials for signage, and decorative wall coverings (page 1, lines 4-7).

In one embodiment as described in claim 1 and illustrated in Figures 1, 2, 2', 3, 3', 3'' and 4, the adhesive article (Fig. 4) comprises:

a release liner 100 (Fig. 1) comprising a release surface 102, a molding layer 104, a substrate 101, and a second surface (Fig. 1, page 18, lines 5-6);

a continuous layer of adhesive 112 (Fig. 4) having a first surface 112c, a second surface 112a and end edges 112b (page 19, lines 14-16), wherein the first surface 112c of the adhesive is adhered to the release surface 102 of the release liner 110 (page 18, lines 16-17);

a first pattern 106 (Fig. 1) of first non-adhesive material forms having a first surface 110b (page 18, line 10) and a second surface 110a (page 18, line 12), wherein the second pattern partially overlaps the first pattern (Fig. 3, page 18, lines 9-10); at least one of the first and second patterns is at least partially embedded in the release surface 102 and molding layer 104 of the release liner 100 (Fig. 3, page 18, lines 18-19); the first surface of each of the two patterns is in contact with the release surface 102 of the release liner 100 (Fig. 3, page 18, lines 10-12), the second surface of each of the two patterns is in contact with the adhesive layer 112 (Fig. 4, page 20, lines 1-3), and the first surface of at least a portion of the first pattern of non-adhesive material forms 106 is in a plane that is different from the plane of the first surface of at least a portion of the second pattern 110 of non-adhesive material forms (Fig. 3, page 19, lines 6-11).

In the embodiment described in dependent claims 7-9, each pattern of the non-adhesive material forms independently comprises a plurality of lines. (Page 13, lines 20-30).

In another embodiment as described in claim 55, on page 5, line 24 to page 6, line 2, and on page 25, line 31 to page 26, line 24, and illustrated in Fig. 11, an adhesive article 214a of the invention comprises:

a continuous layer of adhesive 112 having a first surface 112c, a second surface 112a and end edges 112b (page 21, lines 27-32), and

a first pattern 106 of first non-adhesive material forms and a second pattern 110 of second non-adhesive material forms wherein the second pattern partially overlaps the first pattern (page 21, lines 27-32); at least one of said first and second patterns is at least partially embedded in the first surface of the adhesive layer (page 21, lines 18-19); each of said first and second patterns has an exposed first surface 106b and 110b and an opposite second surface 106a and 110a that is in contact with the adhesive (page 5, lines 30-31) and page 26, lines 9-10) that is in contact with the adhesive (page 21, lines 27-32). The first surface (106b) of at least a portion of the first pattern 106 of non-adhesive forms is in a plane that is different from the plane of the first surface 110a of at least a portion of the second pattern 110 of non-adhesive forms (page 6, lines 11-16 and page 22, lines 2-8); and at least a portion of the first pattern 106 protrudes from the first surface 112c of the adhesive layer 112 (page 6, lines 1-2).

The adhesive article described in claim 55, differs from the adhesive article described in claim 1 in that the release liner 100 has been removed. (Page 21, lines 15-18).

In yet another embodiment as described in dependent claims 17 and 56, and illustrated in Fig. 5, the adhesive articles of the invention may further comprise a facestock 116 adhered to the second surface 112a of the adhesive layer 112 (page 19, line 20 to page 21, line 7 and page 26, lines 19-21).

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-21 and 55-57 have been rejected under 35 USC §102(b) as being anticipated by Hannington et al. WO 01/81080 A1.

VII. ARGUMENT

The above rejected claims fall into two groups as follows.

(A) Claims 1-6, 10-21 and 54-57 relate to adhesive articles comprising a first pattern and a second pattern of non-adhesive material forms wherein the second pattern partially overlaps the first pattern.

(B) Claims 7-9 are dependent from claim 1 and further define each overlapping pattern of non-adhesive material forms as independently comprising a plurality of lines.

A. Claims 1-6, 10-21 and 55-57 are not anticipated by Hannington et al.

The Examiner's Rejection

The Examiner has suggested that Hannington et al disclose an adhesive article (claim 1, line 1) comprising: a release liner comprising a release surface (claim 1, lines 2 and 3), a molding layer (claim 1, line 2) and a second surface (claim 1, lines 2 and 3); a continuous layer of adhesive having a first surface, a second surface and end edges (claim 1, lines 7-9), wherein the first surface of the adhesive is adhered to the release surface of the release liner (claim 1, lines 7-9); a first pattern of first non-adhesive material forms having a first surface and a second surface (claim 1, lines 4-5); and a second pattern of second non-adhesive material forms having a first surface and a second surface (claim 22, lines 1-4), wherein the second pattern partially overlaps the first pattern (page 8, paragraph 30); at least one of the first and second patterns is at least partially embedded in the release surface and molding layer of the release liner (claim 1, line 6); the first surface of each of the two patterns is in contact with the release surface of the release liner (claim 1, line 6), the second surface of each of the two patterns is in contact with the adhesive layer (claim 1, lines 7-9); and the first surface of at least a portion of the first pattern of non-adhesive material forms is in a plane that is different from the plane of the first surface of at least a portion of the second pattern of non-adhesive material forms (page 8, paragraph 30) in claim 1. As in claims 2, each of the non-adhesive material forms independently has an average thickness of about 30 nanometers to about 100 μm (page 8, paragraph 30). With regard to claim 3, each of the non-adhesive material forms independently has an

average thickness of about 3 μm to about 30 μm (page 8, paragraph 30). Regarding claim 4, each pattern of non-adhesive material forms independently is applied by printing, vacuum metallization or sputtering (claim 6). As in claim 5, at least one of the non-adhesive materials independently comprises at least one printing ink, UV curable ink or coalescing ink (claims 15-17). With regard to claim 6, each pattern of non-adhesive material forms independently comprises a plurality of dots, lines or combinations thereof (page 8, paragraph 30). Regarding claim 10, the adhesive layer comprises a pressure sensitive adhesive or a heat-activated adhesive (claims 23 and 24). With regard to claim 11, at least one of the first and second non-adhesive material comprises a porous non-adhesive material (claim 18). As in claim 12, the porous non-adhesive material comprises an elastomer (claim 19). As in claim 13, the adhesive is a pressure sensitive adhesive (claim 23). Regarding claim 14, the release surface of the release liner has a textured or matte surface (claims 11 and 12). With regard to claim 15, the first surface of the adhesive layer has a textured surface that is complementary to the textured surface of the release liner (page 13, paragraph 41). As in claim 16, the release surface of the release liner has a Sheffield roughness of at least about 50 (claim 10). Regarding claim 17, the article further comprising a facestock adhered to the second surface of the adhesive layer (claim 2). With regard to claim 18, the article further comprising a second release liner adhered to the second surface of the adhesive layer (claim 26). As in claim 19, the second surface of the release liner has a release coating thereon (claim 27). Regarding claim 20, the article further comprising a facestock having a first and second surface wherein the first surface is in contact with the second surface of the adhesive layer and a second adhesive layer having a first and second surface wherein the first surface of the second adhesive layer is in contact with the second surface of the facestock (claims 28 and 29). With regard to claim 20, the article further comprising a second release liner adhered to the second surface of the second adhesive layer (claim 26). Hannington et al. also disclose an adhesive article (claim 1) comprising: a continuous layer of adhesive having a first surface, a second surface and end edges (claim 1, lines 7-9), and a first pattern of first non-adhesive material forms (claim 1, lines 4 and 5) and a second pattern of second non-

adhesive material forms wherein the second pattern partially overlaps the first pattern (claim 22); at least one of said first and second patterns is at least partially embedded in the first surface of the adhesive layer (claims 1 and 22); each of said first and second patterns has an exposed first surface and an opposite second surface that is in contact with the adhesive (claims 1 and 22); the first surface of at least a portion of the first pattern of non-adhesive forms is in a plane that is different from the plane of the first surface of at least a portion of the second pattern of non-adhesive forms (claims 1 and 22); and at least a portion of the first pattern protrudes from the first surface of the adhesive layer (claims 1 and 22) as in claim 55. As in claim 56, the article further comprising a facestock adhered to the second surface of the adhesive layer (claim 2). With regard to claim 57, the article further comprising a release liner adhered to the second surface of the adhesive layer (claim 26).

In response to Appellant's argument that the reference does not teach a first pattern of first non-adhesive material forms in a second pattern of non-adhesive forms "wherein the second pattern partially overlaps the first", the Examiner stated in the final rejection of September 19, 2008 that

Hannington et al clearly states that combinations of patterns may be used. The Example listed in Paragraph 30 is the combination of a grid of intersecting lines with random or pattern dots. The patterns overlap since they are being used together over the same area.

Also on Page 5 of the final rejection of September 19, 2008, the Examiner stated

In response to Applicant's argument that the reference does not teach two pluralities of lines that intersect to form a grid pattern, Hannington et al clearly states in paragraph 8 that the pattern is made up of a section of grid lines, the parallel running lines would be the first pattern and the perpendicular lines would be the second pattern.

Appellant's Response

Reversal of the rejection of these claims is requested since Appellant respectfully submits that the claims are not anticipated by Hannington et al.

Independent claims 1 and 55 describe an adhesive article comprising, inter alia, a first pattern of non-adhesive material forms and a second pattern of non-adhesive material forms wherein

- (a) the second pattern partially overlaps the first pattern, and
- (b) the first surface of at least a portion of the first pattern of non-adhesive material forms is in a plane that is different from the plane of the first surface of at least a portion of the second pattern of non-adhesive material forms.

The reference does not teach or suggest a first pattern of a first-nonadhesive material forms and a second pattern of second non-adhesive material forms “wherein the second pattern partially overlaps the first pattern and at least a portion of the first surfaces of the two patterns are in a different plane.

Paragraph 30 of Hannington et al, cited by the Examiner states that the non-adhesive material

“is generally present as a pattern”. The pattern can be a plurality of dots, lines or any geometric figure, that provides a path for air egress in the adhesive article.... “The pattern may be a grid of intersecting lines, a weave pattern, a waffle pattern, diagonal, straight and curve lines, tiled geometric figures, such as hexagons, rectangles, overlapping circles or triangles, or lines in a cross hash pattern.” (Emphasis added).

Hannington et al teach that the above configurations comprise “a pattern” or “the pattern”. Hannington et al then state in paragraph 30 on page 9, lines 1-2:

“Combinations of patterns may be used such as a grid of intersecting lines with random or patterned dots. The “intersecting lines” of the prior art comprise one pattern, and the random or patterned dots comprise a second pattern. Moreover, there is no teaching or suggestion in paragraph 30 that the pattern of dots overlaps the grid of intersecting lines.

In paragraph 55, Hannington et al describe an embodiment wherein the adhesive article of the prior art contains two patterns: an extremely thin interconnecting pattern of

non-adhesive material and a thicker pattern of microdots. The thin interconnecting pattern is considered to be one pattern, and the thicker pattern of microdots is considered to be a second pattern. There is no teaching or suggestion that the two patterns should overlap. In fact, since the pattern of microdots is said to be thicker than the interconnecting pattern, the clear implication is that the microdots do not overlap but are in between the thin interconnecting pattern. If the microdots overlapped the interconnecting lines, the dots would not have to be thicker than the lines to provide the desired slideability and repositionability (page 20, lines 22-24).

The Examiner's position on page 5 of the final rejection that "The two patterns overlap since they are being used together over the same area" is without foundation in Hannington et al. Hannington et al do not contain any teaching or suggestion that would support the Examiner's statement and the rejection of the claims as anticipated by Hannington et al. Accordingly, the rejection of claims 1-6, 10-21 and 55-57 as anticipated by Hannington et al should be reversed.

B. Claims 7-9 are not anticipated by Hannington et al.

The Examiner's Rejection

Regarding claim 7, each pattern of non-adhesive material forms independently comprises a plurality of lines having an average width of from about 12 μm to about 250 μm and an average thickness of from about 30 nanometers to about 100 μm (page 8, paragraph 30). With regard to claim 8, the each pattern of non-adhesive material forms independently comprises a plurality of lines, and wherein at least 50% of the lines intersect the end edges of the adhesive layer (claim 25). As in claim 9, each pattern of non-adhesive material forms comprises a plurality of non-intersecting lines, and wherein the lines from the first pattern and the lines from the second pattern intersect to form a grid pattern (page 8, paragraph 30).

Appellant's Response

In claims 7-9, the first pattern and the second pattern independently comprise a plurality of lines, and further in claim 9, each pattern of non-adhesive material forms is defined as comprising a plurality of non-intersecting lines wherein the lines from the first pattern and the lines from the second pattern intersect to form a grid pattern.

Hannington et al do not teach or suggest a combination of two patterns where each pattern is a plurality of non intersecting lines wherein the lines from the first pattern and the lines from the second pattern intersect to form a grid, and the first surface of at least a portion of the lines of the first pattern is in a plane that is different from the plane of the first surface of at least a portion of the second pattern. It is this latter feature of Appellant's adhesive articles that provide the desired air egress, repositionability and slideability to Appellant's adhesive articles.

The Examiner's statement regarding claim 9 found on page 3, namely,

As in claim 9, each pattern of non-adhesive material forms comprises a plurality of non-intersecting lines and wherein the lines from the first pattern and the lines from the second pattern intersect to form a grid pattern. (Page 8, paragraph 30).

is not supported on page 8 or anywhere else in Hannington et al.

Appellant does not dispute that Hannington et al teach, in paragraph 30, that the pattern may be grid of intersecting lines, but this grid of intersecting lines is described by Hannington et al as "a pattern". Overlapping circles or triangles are mentioned on page 8, line 32 of Hannington et al, but again, these are examples of a first pattern, and there is no teaching or suggestion that the first surfaces of the overlapping circles or triangles are in different planes.

Even if, for the sake of argument, Hannington et al's grid of intersecting lines or overlapping circles or triangles could be considered two patterns, there is no teaching or suggestion in Hannington that the first surface of at least a portion of the first pattern of non-adhesive material forms is in a plane that is different from the plane of the first

surface of at least a portion of the second pattern. The only suggestion in Hannington et al of the use of a combination of patterns is the suggestion that combinations of patterns may be used such as a grid of intersecting lines with random or pattern dots (page 9, lines 1-2 and page 20, lines 12-26). There is no teaching of an adhesive article as described in claims 7-9 wherein each pattern independently comprises a plurality of lines and the first surface of at least a portion of the first pattern is in a plane that is different from the plane of the first surface of at least a portion of the second pattern.

Accordingly, the rejection of claims 7-9 should be reversed.

VIII. CONCLUSION

For all of the above reasons, and the distinctions between the presently claimed adhesive articles and the adhesive articles of the prior art, the Honorable Board of Appeals is requested to reverse the rejection of claims 1-21 and 55-57.

If any additional fees are required for the filing of this paper, the Commissioner is authorized to charge those fees to Deposit Account #18-0988 (Docket No. AVERP3187WOUS).

Respectfully submitted,

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APPENDIX A

CLAIMS SUBJECT TO APPEAL

1. An adhesive article comprising:
 - a release liner comprising a release surface, a molding layer and a second surface;
 - a continuous layer of adhesive having a first surface, a second surface and end edges, wherein the first surface of the adhesive is adhered to the release surface of the release liner;
 - a first pattern of first non-adhesive material forms having a first surface and a second surface; and
 - a second pattern of second non-adhesive material forms having a first surface and a second surface, wherein the second pattern partially overlaps the first pattern; at least one of the first and second patterns is at least partially embedded in the release surface and molding layer of the release liner; the first surface of each of the two patterns is in contact with the release surface of the release liner, the second surface of each of the two patterns is in contact with the adhesive layer; andthe first surface of at least a portion of the first pattern of non-adhesive material forms is in a plane that is different from the plane of the first surface of at least a portion of the second pattern of non-adhesive material forms.
2. The adhesive article of claim 1 wherein each of the non-adhesive material forms independently has an average thickness of about 30 nanometers to about 100 μm .
3. The adhesive article of claim 1 wherein each of the non-adhesive material forms independently has an average thickness of about 3 μm to about 30 μm .
4. The adhesive article of claim 1 wherein each pattern of non-adhesive material forms independently is applied by printing, vacuum metallization or sputtering.

5. The adhesive article of claim 1 wherein at least one of the non-adhesive materials independently comprises at least one printing ink, UV curable ink or coalescing ink.

6. The adhesive article of claim 1 wherein each pattern of non-adhesive material forms independently comprises a plurality of dots, lines or combinations thereof.

7. The adhesive article of claim 1 wherein each pattern of non-adhesive material forms independently comprises a plurality of lines having an average width of from about 12 μm to about 250 μm and an average thickness of from about 30 nanometers to about 100 μm .

8. The adhesive article of claim 1 wherein the each pattern of non-adhesive material forms independently comprises a plurality of lines, and wherein at least 50% of the lines intersect the end edges of the adhesive layer.

9. The adhesive article of claim 1 wherein each pattern of non-adhesive material forms comprises a plurality of non-intersecting lines, and wherein the lines from the first pattern and the lines from the second pattern intersect to form a grid pattern.

10. The adhesive article of claim 1 wherein the adhesive layer comprises a pressure sensitive adhesive or a heat-activated adhesive.

11. The adhesive article of claim 1 wherein at least one of the first and second non-adhesive material comprises a porous non-adhesive material.

12. The adhesive article of claim 11 wherein the porous non-adhesive material comprises an elastomer.

13. The adhesive article of claim 1 wherein the adhesive is a pressure sensitive adhesive.

14. The adhesive article of claim 1 wherein the release surface of the release liner has a textured or matte surface.

15. The adhesive article of claim 14 wherein the first surface of the adhesive layer has a textured surface that is complementary to the textured surface of the release liner.

16. The adhesive article of claim 1 wherein the release surface of the release liner has a Sheffield roughness of at least about 50.

17. The adhesive article of claim 1 further comprising a facestock adhered to the second surface of the adhesive layer.

18. The adhesive article of claim 1 further comprising a second release liner adhered to the second surface of the adhesive layer.

19. The adhesive article of claim 1 wherein the second surface of the release liner has a release coating thereon.

20. The adhesive article of claim 19 further comprising a facestock having a first and second surface wherein the first surface is in contact with the second surface of the adhesive layer and a second adhesive layer having a first and second surface wherein the first surface of the second adhesive layer is in contact with the second surface of the facestock.

21. The adhesive article of claim 20 further comprising a second release liner adhered to the second surface of the second adhesive layer.

55. (Original) An adhesive article comprising:

a continuous layer of adhesive having a first surface, a second surface and end edges, and

a first pattern of first non-adhesive material forms and a second pattern of second non-adhesive material forms wherein the second pattern partially overlaps the first pattern; at least one of said first and second patterns is at least partially embedded in the first surface of the adhesive layer; each of said first and second patterns has an exposed first surface and an opposite second surface that is in contact with the adhesive; the first surface of at least a portion of the first pattern of non-adhesive forms is in a plane that is different from the plane of the first surface of at least a portion of the second pattern of non-adhesive forms; and at least a portion of the first pattern protrudes from the first surface of the adhesive layer.

56. The adhesive article of claim 55 further comprising a facestock adhered to the second surface of the adhesive layer.

57. The adhesive article of claim 55 further comprising a release liner adhered to the second surface of the adhesive layer.

APPENDIX B
EVIDENCE

None.

APPENDIX C
RELATED PROCEEDINGS

None.